

C. PacBell has Unlawfully Discriminated Against MCI and its Customers in Violation of PU Code Section 453.

40. PacBell has selectively provided access to an electronic data interface even though its duty to provide all CLCs with electronic bonding under D.96-02-071 is clear. PacBell is undertaking an electronic data interface with AT&T but not with MCI. By enabling AT&T to process customer migration orders more expeditiously, efficiently, and accurately than MCI, PacBell has granted a competitive advantage to AT&T and disadvantaged MCI in the local exchange market. Moreover, by continuing to utilize its own on-line provisioning system to serve customers who elect PacBell local exchange service, PacBell places MCI at a further competitive disadvantage in relation to PacBell. The foregoing actions constitute violations of Section 453, subsection (c) of the PU Code.

41. PacBell has refused to treat MCI's requests for customer service changes under the standard established by its filed end-user tariffs. PacBell has chosen to provide AT&T with on-line, real-time access to customer service order records and to accelerate its development of EDI with AT&T, despite MCI's obvious need for on-line operating support systems and MCI's documented requests for the EDI interface. Moreover, the operating support systems provided to MCI are inferior to those currently being provided to MFS and to PacBell, because they generate less customer information and are slower than the system used to serve those other carriers. This treatment of MCI constitute violations of Section 453, subsections (a) and (c) of the PU Code.

42. The abusive treatment of MCI customers based upon their decision to select an alternate local exchange carrier also constitutes unlawful discrimination. PacBell has granted preferential treatment to customers who retain PacBell local service in violation of Section 453, subsection (a) of the PU Code. It has also subjected consumers who purchase service provided

through PacBell's resale tariff to unreasonable differences as to service, in violation of Section 453 subsection (c) of the PU Code.

43. The foregoing facts show that PacBell seeks to discourage customer migration to MCI by harassing, intimidating, or misinforming customers. In addition to being violative of Section 453 with respect to consumers, these actions also harm MCI's reputation and place MCI at a competitive disadvantage in the local exchange market, in violation of Section 453 subsection (a) of the PU Code.

D. PacBell Has Abused MCI Customers In An Unlawful Attempt to Stifle Competition In Violation of PU Code Sections 709 and 709.5.

44. MCI has alleged above that PacBell has subjected its former customers who have selected MCI as their provider of local exchange service to inferior service, intimidation, harassment, and misinformation. The only reason these consumers are mistreated is they have chosen to purchase telephone service from a competitor of PacBell. These practices violate Sections 709 and 709.5 of the PU Code because they are anticompetitive and effectively frustrate the opening of the local telecommunications market to competition.

E. By Failing to Ensure that its Employees and Agents Comply with D.96-02-072, PacBell is in Violation of PU Code Section 702.

45. PU Code Section 702 states,

Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the commission . . . and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.

46. The Commission announced its policy in favor of local exchange competition and prescribed rules for competition in the Local Exchange proceeding and promulgated rules for local competition in decisions made in that proceeding. PacBell's employees and agents have

disparaged MCI, mischaracterized the lawfulness of MCI's local service, and provided misinformation about the quality or cost of MCI's local service in violation of these decisions. PacBell's employees have also attempted to recapture customers from MCI through discriminatory treatment, in violation of Section 453 of the PU Code.

47. Not only must PacBell, the corporation, conform its business activities to Commission decisions and rules, PacBell has a statutory duty to ensure that the actions of its employees conform with Commission orders. Because PacBell has allowed its employees to engage in anticompetitive and discriminatory conduct, PacBell has violated PU Code Section 702.

F. PacBell's Actions Violate the Local Exchange Competition Provisions of the Telecommunications Act of 1996 and its Implementing Regulations.

48. The Telecommunications Act of 1996 establishes requirements for local exchange competition, including standards for the resale of unbundled network elements by LECs to CLCs. The Act imposes the duty upon incumbent LECs to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis on terms that are reasonable and nondiscriminatory in accordance with the terms of the negotiated agreement and the requirements of sections 251 and 252 of the Act.¹⁵

49. The regulations adopted by the FCC to carry out the terms of the Telecommunications Act of 1996 appear at 47 C.F.R. Sec. 51, et. seq. The federal regulations hold PacBell to a standard of non-competitive conduct at least as high as that embodied in the Commission's Rules for Local Competition.

¹⁵ See, Section 251. Interconnection, subsection (c), "Additional Obligations of Incumbent Local Exchange Carriers", par. (3).

G. Failure to Provide Ordering Support Systems and Migration on a Timely Basis is Violative of 47 C.F.R. Sec. 51.603.

50. 47 C.F.R. Sec. 51.603 requires every LEC to provide services to requesting telecommunications carriers for resale on terms and conditions that are reasonable and non-discriminatory. Subsection (b) states:

A LEC must provide services to requesting telecommunications carriers for resale that are equal in quality, subject to the same conditions, and *provided within the same provisioning time intervals that the LEC provides these services to others, including end users.* (Emphasis added).

51. The facts stated in this Complaint demonstrate that PacBell has failed to provide MCI with reasonable and nondiscriminatory service for resale. It is irrelevant that PacBell has no end user tariff that sets forth the time within which customer orders for local service must be completed; in no event could a delay of at least eight weeks, which has been experienced by approximately 510 of MCI's resale customers, be acceptable to PacBell's own end users. The Commission should certainly not tolerate such delay for end users. Were such treatment of CLCs to be condoned, the Commission would essentially find that it is reasonable for an ILEC to take eight weeks to migrate a customer to the local carrier of choice. It would also be creating a double standard of conduct for LECs, one for the LEC's end user, and the other for the LEC's competitor. Such a double standard is expressly prohibited by 47 C.F.R. Sec. 51.603.

52. PacBell has subjected MCI customers to service interruptions, loss of dial tone, misinformation, intimidation, and harassment. MCI is informed and believes that PacBell does not engage in such conduct toward its own end users. For example, PacBell's tariff 2.1.11, Rule No.

11, subsection D, specifies the customer's right to notice before disconnection.¹⁶ PacBell's tariff states:

"Except as provided by these rules or regulations, the Utility will not partially, temporarily or permanently discontinue telephone service to any customer except upon written notice of at least 5 days, advising the customer of the intention to discontinue, and the reasons for the discontinuance, and the steps which must be taken to avoid discontinuance. . . . Denial of dial tone is a partial discontinuance of service under this Rule." (Schedule Cal. P.U.C. No. A2, 1st Revised Sheet 83, effective April 18, 1985.)

53. As detailed above, customers who select MCI local service are sometimes disconnected without either receiving the notice required by PacBell Rule 11 or meeting the criteria for mandatory service disconnection under Rule 11. The disconnections had not been requested by MCI.* Clearly, MCI and its customers do not enjoy the same level of service quality as that which PacBell provides to its own end users.

50. In summary, PacBell has denied MCI service quality parity, as required by 47 C.F.R. Sec. 51.603, subsection (b).

H. PacBell's Preferential Granting of On-Line Access to its Customer Information Systems to AT&T, and its Denial of Identical Access to MCI, Is Prohibited By 47 C.F.R. Sec. 51.311

51. The regulations prohibit discrimination in the provisioning of unbundled network elements. A "network element" is defined as a facility or equipment used in the provision of a telecommunications service. Such term also includes, but is not limited to, features, functions, and capabilities that are provided by means of such facility or equipment. The latter include but are not limited to, subscriber numbers, databases, signaling systems, and information sufficient for billing

¹⁶ Even though MCI is the carrier of choice, it does not have access to the equipment to connect or disconnect its customers from the local exchange network. PacBell provides the connection. Thus, disconnections must be attributed to PacBell.

and collection or used in the transmission, routing, or other provision of a telecommunications service.¹⁷ Operating support systems are a category of network elements that LECs must provide to CLCs on an unbundled basis. An incumbent LEC, such as PacBell, must provide nondiscriminatory access to operations support systems functions, which by definition consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by a incumbent LEC's databases and information.¹⁸

52. Sec. 51.311 guarantees nondiscriminatory access to unbundled network elements, including operations support systems. Paragraph (a) states:

The quality of an unbundled network element, as well as the *quality of the access* to the unbundled network element, that an incumbent LEC provides to a requesting telecommunications carrier shall be *the same for all telecommunications carriers requesting access to that network element*, except as provided in paragraph (c) of this section . . ." (Emphasis added.)

Paragraph (c) holds incumbent LECs to a duty to provide requesting carriers access to network elements that is superior in quality to that which the incumbent provides to itself, unless the incumbent proves to the state commission that it is not technically feasible to do so.

53. 47 C.F.R. Sec. 51.313 states:

Where applicable, the terms and conditions pursuant to which an incumbent LEC offers to provide access to unbundled network elements, *including but not limited to, the time within which the incumbent LEC provisions such access*, to unbundled network elements, shall, at a minimum, be no less favorable to the requesting carrier than the terms and conditions under which the incumbent LEC provides such elements to itself.

¹⁷ 47 C.F.R. Sec. 51.5

¹⁸ 47 C.F.R. Sec. 51.319 subsec. (f).

54. The above-quoted regulations are clearly designed to remove barriers to fair competition that would exist if the ILEC were to grant superior access to its operations support system upon any particular carrier. However, PacBell has violated 47 C.F.R. Sec. 51.313 by granting MFS and AT&T superior access to its operations support systems, and retaining the use of its own use of operational support systems, while providing inferior access to MCI. While PacBell has agreed with AT&T to implement EDI technology to enable the companies to transfer order support information on-line, PacBell refuses to acknowledge its responsibility to negotiate directly with MCI over the terms of EDI deployment and has excluded MCI from the technical development of that on-line interface. PacBell would confer AT&T access to its operations support systems sooner than it would to MCI, even though MCI has sought such access since at least June of 1996 and the above-cited regulation requires the ILEC to offer access within the same time to all requesting carriers. Moreover, PacBell has agreed to provide AT&T with real-time access to PacBell's customer information systems, which will allow AT&T representatives to perform the suspension, termination, or restoral of service, among other things. PacBell has claimed that such access by MCI poses a security risk for PacBell. Even if PacBell were to eventually provide MCI with the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions of its own operations support systems, that access would have to be delayed until after MCI's competitor, AT&T, had enjoyed the competitive advantage of using the on-line system. PacBell provides superior operations support systems to MFS by transmitting customer information in the form of CPNI, but provides MCI less complete information on a delayed schedule in the form of a CSR. PacBell makes customer service information available to MCI within a number of days, while PacBell, itself, has instantaneous on-line access to this information.

55. The Commission should find that PacBell's failure to provide MCI with the access to its customer database it has granted to MFS, its refusal to allow MCI to join in its discussions with AT&T to develop electronic bonding, its refusal to grant MCI real-time access to its on-line customer information database even though it has conferred such access upon AT&T, the failure to provide MCI with service of the quality as that which PacBell provides to itself, and its continued utilization of its own operations support systems while MCI has been denied access violate the provisions of 47 C.F.R. Sec. 51.313.

I. Refusal to Discuss Terms of Electronic Bonding that PacBell Agreed to with Another CLC Violates PacBell's Duty to Negotiate in Good Faith

56. Section 251(c)(1) of the Telecommunications Act imposes on incumbent LECs the duty to negotiate in good faith the particular terms and conditions of agreements to fulfill the duties of LECs to, among other things, resell telecommunications services and provide nondiscriminatory access to network elements in accordance with Sections 251 and 252 of the Telecom Act. (See, First Report and Order, par. 138.) The FCC further indicated that state Commissions have authority, under section 252 (b)(5), to consider allegations that a party has failed to negotiate in good faith. (*Id.*, par. 143.) Thus, the Commission should find that PacBell's refusal to negotiate the terms of an on-line service ordering system in the context of its resale arrangement with MCI constitutes a violation of its duty to negotiate in good faith under the Telecommunications Act of 1996, particularly since PacBell has reached such an accommodation with MCI's rival, AT&T.

CONCLUSION

57. PacBell has discriminated against MCI and against PacBell's own customers who attempt to exercise their right to choose a competitor for local exchange service and has failed to fairly provide MCI unbundled network elements. These acts constitute ongoing violations of

sections 453, 702, 709 and 709.5 of the PU Code, as well as violations of sections 251 subsec.(b)(1), 251 subsec.(c)(1),(3), and (4) of the Telecommunications Act of 1996 and 47 C.F.R. sections 51.311, 51.313, 51.319, and 51.603.

PRAYER FOR RELIEF

WHEREFORE, in consideration of the pressing need for viable competition in the local exchange market, the fact that MCI is attempting to provide consumers with a quality alternative to existing service, and the serious impediment to MCI's ability to enter the local exchange market caused by PacBell's pattern of anticompetitive and discriminatory conduct, MCI respectfully urges the Commission to grant the following relief pursuant to the authority vested in it by Sections 701 and 1702 of the PU Code:

1. That PacBell be enjoined from operating an electronic data interface (EDI) for the purpose of interconnecting operations support systems functions, as defined by 47 C.F.R. Sec. 51.319, until it has certified to this Commission that it will offer or has offered the same terms and conditions for electronic interface to every CLC with which it executes an agreement pursuant to Section 252 of the Telecommunications Act of 1996, and that at least two competitive local carriers ("CLCs") are utilizing the EDI when PacBell initiates electronic bonding.

2. That PacBell be ordered to timely provide MCI with an EDI interface that is compatible with MCI's data systems as much as technically possible, by including MCI in the development of the EDI interface which it is currently undertaking with AT&T and bearing the cost to MCI of constructing and operating the EDI with PacBell, among other things.

3. That PacBell be enjoined from requiring the submission of a prospective customer's written letter of authorization before MCI is allowed access to the customer service records, whether CSR, CPNI, or in some other format.

4. That PacBell be subject to the following local resale service order processing standards:

(a) Within 4 hours of PacBell's receipt of each order, PacBell will provide MCI with a Firm Order Confirmation ("FOC") for each order. MCI's ordered elements or combination features, options, physical interconnection, and quantity shall be enumerated in the FOC. Each FOC must indicate the date PacBell commits for order completion (Committed Due Date).

(b) Upon work completion, PacBell will provide MCI with an Order Completion for each order that specifies that each of the elements, etc., listed on the FOC have been completed and shall specify any additional charges for the work.

(c) PacBell shall notify MCI as soon as possible of any instances when the Committed Due Dates are in danger of not being met, or an order contains errors/rejections.

(d) PacBell shall revise its order entry process so that no disconnect and reconnect of the customer's dial tone is required to migrate a local exchange customer from PacBell to MCI.

5. With respect to MCI end-user service trouble reports, that PacBell be required to provide MCI with a trouble status report no later than 2 hours after the problem was communicated to PacBell and at no less than 24 hour intervals thereafter, and whenever the problem has been resolved.

6. That PacBell adopt and implement a corporate policy accepting the pro-competitive policies of this Commission, the State Legislature, and the Telecommunications Act.

(a) PacBell shall publish, in advertisements placed in daily newspapers serving at least its top 10 local markets, a letter signed by the President of PacBell and subject to the approval of the Commission, that acknowledges the public policy in favor of local exchange competition and describes the respective roles of PacBell, as an incumbent LEC, and competitive local carriers. The role of resellers in creating a marketplace for competition would be expressly described. The newspaper campaign shall be subject to the prior approval of the Commission.

(b) The president's message shall be inserted and incorporated into PacBell's internal practice and procedure manual as a policy to be strictly observed by all PacBell employees.

(c) PacBell shall take affirmative steps to neutralize its employees' hostility and lack of information concerning MCI. PacBell shall adopt and implement an orientation program to educate and train its employees, particularly employees who have public contact, about local competition in California. In particular, PacBell's employees must be directed to refrain from anticompetitive or anti-consumer acts, such as disparaging MCI, mischaracterizing the lawfulness of MCI's acts, or providing misinformation about the quality or cost of MCI's local service, as such actions interfere with a customer's exercise of choice and violate the law. The program shall include a survey of the legislative background, including the Telecommunications Act and Section 709, etc. of the PU code, the Commission's actions in the Local Competition Docket, and a summary of the terms and conditions subject to arbitration under Section 252 of the Act. Employees shall also be informed of the fact that PacBell has filed its resale tariff and is offering to

resell local exchange services to competitive local carriers ("CLCs"), and that CLCs such as MCI are currently authorized to provide local exchange service and have filed their tariffs to serve end-users. This orientation program shall be mandatory for all PacBell employees who have contact with the public, especially its consumer representatives. The design and content of the orientation program shall be subject to the approval of the Commission and MCI.

7. PacBell shall pay, in the amount to be determined, funds to the Telecommunications Education Trust Account, to be used in a radio public information program to advise consumers of the federal and state initiatives to promote local exchange competition, and to explain the potential benefits of competition.

8. PacBell must immediately improve its service quality to resold MCI customers. Any loss of dial tone, loss of custom features, or other problems caused by the functioning of central office plant suffered by a resold MCI customer within PacBell's service territory will be attributed to PacBell for purposes of the service quality report required of PacBell by CPUC General Order 133-B, in particular section 3.4. "Customer Trouble Reports."

9. PacBell should be required to file quarterly customer migration service quality reports at the Commission. Such reports would document the occurrence, cause, and resolution of service problems experienced by end users served by CLCs, but which were within the control of PacBell. Examples of such problems would be loss of dial tone, re-routing of customer's number to other end users and loss of custom calling features. This information would be provided on a reseller by reseller basis. The Commission may determine that additional information should be

provided, on a confidential basis, to ensure that no discrimination between carriers is occurring.

10. Such other and further relief as the Commission finds to be just and reasonable.

Dated at San Francisco, California, this 11th day of December, 1996.

Respectfully Submitted,

MCI TELECOMMUNICATIONS CORPORATION

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ATTACHMENT 1

**Letter of Nate Davis
Senior Vice President, MCI**

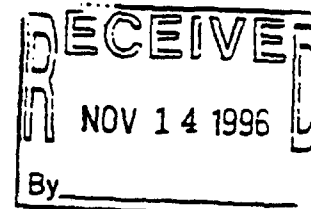
December 11, 1996



**MCI Telecommunications
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Nate Davis
Senior Vice President, Local Markets
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November 11, 1996

David W. Dorman
Group President, Pacific Telesis Group
Chairman, President and CEO, Pacific Bell
130 Kearny Street
San Francisco, California 94133

Dear Mr. Dorman:

As you know, the Public Utilities Commission authorized the resale of local exchange service effective March 31, 1996. MCI embraced this opportunity and began introducing its local service in September of 1996.

In your testimony supporting the application of the Pacific Telesis Group and SBC Communications Inc. for CPUC approval of their proposed merger, you alluded to Pacific Bell's ("PacBell") plan to provide all of the ingredients for effective local competition with an implementation date of January, 1996. You stated, "(M)ore than a year before this Commission ordered resale, we had begun to develop the complex systems required to enable efficient ordering, implementation and service of resold products. . . . We are also very proud of our resale administrative systems and believe they are among the best in the nation."

We accept at face value your stated policy in favor of local exchange competition. However, since the introduction of local service by MCI in September, experience has shown that PacBell's execution fails to deliver even the basic requirements necessary to enable a competitor to resell PacBell's service to local exchange customers. Below, I have provided a description of some of the problems we have been confronting and seek your active assistance in promptly remedying them.

Service Interruption and Disconnection of Migrating Customers

MCI has documented more than 20 cases of involuntary loss of dial tone suffered by customers who chose MCI as their local carrier. One business customer recently reported that its calls are being received by a business across the street from its premises. The primary cause is PacBell's internal order processing procedures. According to your staff, the problem results from PacBell's need to write two separate (both "in" and "out") orders to close the account for final billing. If the in and out functions are not processed simultaneously, a loss of dial tone will result. This situation is not acceptable to the customer or to MCI.

PacBell's tariff 2.1.11, Rule No. 11, subsection D, specifies the customer's right to notice before

disconnection. Rule No. 11 states,

"Except as provided by these rules or regulations, the Utility will not partially, temporarily or permanently discontinue telephone service to any customer except upon written notice of at least 5 days, advising the customer of the intention to discontinue, the reasons for the discontinuance, and the steps which must be taken to avoid discontinuance. . . . Denial of dial tone is a partial discontinuance of service under this Rule." ¹

No such notice is given before a customer migrating to MCI loses dial tone. MCI is concerned that PacBell is discriminating against its customers who have elected MCI local service; furthermore, MCI is harmed by the anticompetitive impact of PacBell advising disconnected customers that the disconnection was requested by MCI.

PacBell's order processing system requires a migrating customer's listing to be deleted from PacBell's directory, and then re-entered in PacBell's directory database. Our requests to have the customer's directory information migrated "as is", which would eliminate the risk of error, have been refused.

We are concerned that customer satisfaction is being jeopardized by rigid and inefficient data entry procedures. The risk of error can only worsen as MCI accelerates its entry into the local exchange market, unless PacBell's order process and supporting systems are changed. Migration in the case of resale involves merely a change in billing status, not a modification of the wires or switches. PacBell's resources would be conserved if the practice of writing two orders (disconnect/connect) were amended. We strongly urge you to engineer a solution to this problem, so that no consumer will suffer a loss of service simply by exercising the right to select a local carrier.

Hostility Toward MCI Customers

A disturbing number of customers intending to switch to MCI for local exchange service have complained that they were intimidated, harassed, or misinformed by PacBell's service representatives when they stated their intent to migrate to MCI.

Intimidation of MCI Customers

In one case, an MCI customer requested PacBell to provide number referral for his business line, which he intended to migrate to MCI. The PacBell representative claimed--incorrectly-- that the business line was "sold to another company three years ago", and that the business line would have to be disconnected immediately. In another case, a business prospect was told by a PacBell sales representative that, due to the 8th Circuit's recent stay of the FCC's

¹PacBell Tariff 2.1.12 Rule No. 11 - Discontinuance and Restoration of Service Connection. (Schedule Cal. P.U.C. No. A2, 1st Revised Sheet 83, effective April 18, 1985.)

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August order, MCI had no authority to provide local service in California.

Harassment of MCI Customers

We believe that the following notice is appearing on all final local service bills from PacBell: "You have been disconnected from MCI Long Distance Service." This appears to inform the customer that she/he can no longer make long distance calls.

Misinformation Given to MCI Customers

In one case, PacBell advised a potential customer that if she switched to MCI for local service, in addition to her charges for MCI local service, she would still have to pay PacBell for dial tone because PacBell owns the network. Other examples of misinformation include, "If you have MCI local you must have MCI long distance service", "MCI local service won't be as reliable", and "MCI cannot provide service because PacBell owns the network."

Unreasonable Operating Practices

PacBell has instituted a number of practices which have delayed MCI orders, resulted in errors in both order processing and service delivery, and prevent efficient migration of customers to MCI when no changes are required in the way the service operates.

Disregard for Consumer Choice

MCI customers report that they were migrated to AT&T instead of their carrier of choice, MCI. PacBell's 611 system sends non-PacBell local exchange customers to their selected carrier for phone repair. Our customers realized they may have been assigned to AT&T when that company's representatives answered their 611 calls.

Unreasonable Delay Imposed Upon MCI Customers

Closely related to PacBell's intimidation of MCI customers is PacBell's unreasonable failure to communicate with MCI, and PacBell's subsequent rejection of migration orders that were sent because PacBell had never apprised MCI of its central office situation.

In late September, PacBell undertook equipment changes in one of its Los Angeles central offices and determined that it would not process any resale orders for that central office. However, PacBell did not advise MCI of the situation. Thus, MCI continued to solicit new customers and forwarded change orders to PacBell. After project completion, PacBell refused to honor the previously submitted orders; it rejected them and required MCI to resubmit new

orders. This strategy unreasonably delayed the benefits of MCI local service to consumers who had chosen a competitive alternative to PacBell.

Unreasonable Delay in Providing Customer Service Records

Once MCI has received and verified a customer's request for MCI local service, a customer service record (CSR) is requested from PacBell.² The CSR enables MCI to verify the services MCI must obtain on behalf of the customer to provide the desired type of service and avoid errors by MCI, PacBell, or even the customer particularly when the service should be transferred without change. PacBell provides the CSR to MCI within a range of 2 days to 22 days, depending on the amount of information to be transmitted. MCI then specifies the desired service to PacBell. At that time, PacBell will make a firm order commitment to provide the requested service to MCI on a certain date. Only then can the customer be advised when MCI service will begin.

The CSR is updated only monthly, and may not accurately report the customer's actual service arrangements. PacBell's other databases, the Service Order System (SORD) and Billing Order Support System (BOSS) provide on-line inventories of a customer's actual service arrangements for use by PacBell service representatives. Until such time as PacBell implements access to these systems for MCI, it must transmit the information contained in a specific customer's file to MCI, to assure that the integrity of the customer's service is protected. If PacBell intends to honor its commitment to the efficient implementation of resale, then the turnaround time for the delivery of customer records to MCI must be trimmed to no more than 24 hours.

Inability to Migrate "As-Is"

In some cases, after a review of the customer's existing service, no change in the customer's existing service arrangement should be made. The possibility of error (and service disruption) would be minimized if the customer could be migrated "as is". In fact, PacBell offers the following option to its own customers:

At the time when a customer requests a move, change or addition to an existing residence service, the Utility, or its authorized employees, shall ask if the

² The CSR lists service arrangements that are essential to maintaining the customer's existing service, of which the customer may be unaware, and which are not apparent on the monthly statement.

customer would like the service moved as it is currently provided with no changes to the Type of service or optional services.³

PacBell currently requires MCI to transmit a completely separate service order request to replace the customer's existing service record. The ability to migrate a customer "as is" should be implemented both to avoid error and to improve efficiency for both PacBell and MCI.

Service Order Backlog

I was startled by your recent testimony before the California Public Utilities Commission in the Pacific Telesis/SBC merger proceeding that the number of resale orders from new market entrants had not reached levels that you had anticipated.⁴ In fact, as of October 25, there was a backlog of more than 3100 service orders that MCI had forwarded to PacBell, but which PacBell had not reviewed. Your review results in either a "rejection" or "confirmation". Only then can MCI either correct the order or confirm a MCI service date with its customer. This delay in order processing impairs MCI's relationships with its customers. Clearly, PacBell would not treat its own customers this way. PacBell's Rule 2.1.12 states:

"Within two working days after the taking of a completed order for new business or residence service or for moves, changes or additions to existing residence or business service, the Utility will mail a confirmation letter to the customer placing the order setting forth a brief description of the services ordered and the specific recurring rates and nonrecurring charges as set forth in the effective tariffs of the Utility which are applicable to the services ordered."⁵

We are encouraged by your deployment of extra personnel during the weekend of November 2-3 to eliminate the backlog. Our staff will be reviewing PacBell's confirmation orders for accuracy and will bring any outstanding problems associated with pending orders to your staff's attention. Prior to this concerted effort, our records indicated that as of October 25, a total of 3,128 orders

³ PacBell Tariff 2.1.12 Rule No. 12 - Disclosure of Rates and Charges and Information to be Provided to the Public. (Schedule Cal. P.U.C. No. A2. 3rd Revised Sheet 84, effective May 15, 1995).

⁴ "But we are not in a volume production mode that we expect to be in because, frankly, the resale orders have come to us slower than the forecasts provided to us by our own reseller customers." October 28, 1996, Transcript at p.505.

⁵ 2.1.12 Rule No. 12 -- Disclosure of Rates and Charges etc., Schedule Cal.P.U.C. No. A2. Original Sheet 84.2, effective May 15, 1995.

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awaited PacBell confirmation, as follows:

<u>Age</u>	<u>Orders</u>
0-6 days	1,605
8-13 days	1,120
14-20 days	149
21-27 days	120
28-34 days	134

Further, PacBell staff had verbally indicated "confirmation" intervals of four hours during training workshops. Your staff has committed to provide order confirmation or rejection within 4 hours of receiving an order and to complete residential customer migration for POTS (plain old telephone service) within 5 days of order receipt and business customer migration within 3 days of order receipt. We hope this commitment will be honored.

Apparently, much of the delay in order processing is attributable to the lack of a true electronic data interface between PacBell and MCI. At this time, our companies are discussing the use of a data transmission process, which would constitute an improvement over the current mode of communication via FAXes. However, orders would still have to be entered once in MCI's database and, once received electronically, entered again in PacBell's database. The process for order confirmation is the same, albeit in reverse direction. The potential for human error and delay would be greatly minimized if PacBell and MCI used order forms which conformed with a national standard, maintained customer service records in a consistent format, and provided for on-line access to the change order database. This arrangement is known as the "EDI" standard. The only solution to the problems of human error and delay is full automation. Full automation is also required by the FCC Order to be implemented by 1/1/97.

I understand that the availability of EDI is contingent upon industry adoption of a national standard for order and billing forms. Because MCI intends to resell local service provided by several, if not all the incumbent local exchange carriers (LECs), we are concerned that the EDI system adopted by PacBell be compatible with that to be used by the other incumbent LECs. Thus, while EDI should provide a solution to the problem of order entry errors and delays, it is essential that the particular version of EDI employed by PacBell is compatible with EDI systems adopted by the Ordering and Billing Forum as the industry standard.

PacBell provides no daily reporting which would enable MCI personnel to establish that all orders transmitted have been received and that all responses from PacBell have in turn been received by MCI. PacBell is also unable to readily provide the status on any particular order, which makes resolving provisioning problems difficult. At a minimum, PacBell must provide MCI and the other CLECs with daily reporting statusing orders and a mechanism for querying the disposition of any particular order.

Customer Roadblocks

Even if PacBell has successfully eliminated the backlog that accrued during the months of September and October, MCI believes that the customer migration process is still handicapped by PacBell processes that impede the redefinition of a customer's service. These are internal process problems that PacBell must revise in order to efficiently and accurately process orders from wholesale customers such as MCI. Ultimately, the customer must encounter no risk of involuntary service change (e.g., loss of dial tone) simply because the customer has selected a reseller's local exchange service. If such involuntary service change does occur, PacBell and MCI must have an established escalation process which provides a single point of contact.

In summary, PacBell's actions have strongly repudiated its alleged procompetitive resale policy. PacBell would not subject its own ratepayers to the abuse, misinformation, and delay it has meted out to MCI and its customers. Apparently, the only reason MCI and its customers were treated in this manner is that MCI is a competitor against PacBell in the offering of local exchange service. The situation is exactly what Congress, the FCC and the PUC have sought to prevent.

The FCC's order implementing the Telecommunications Act of 1996 requires "... that service made available for resale be at least equal in quality to that provided by the incumbent LEC to itself or to any subsidiary, affiliate, or any other party to which the carrier directly provides the service, such as end users. Practices to the contrary violate the 1996 Act's prohibition of discriminatory restrictions, limitations, or prohibitions on resale." The FCC specifically ordered incumbent LECs to provision their services for resale with the same timeliness as they are provisioned to end users. The FCC further stated, "This equivalent timeliness requirement also applies to incumbent LEC claims of capacity limitations and incumbent LEC requirements relating to such limitations, such as potential down payments. We note that common carrier obligations, established by federal and state law and our rules, continue to apply to incumbent LECs in their relations with resellers."⁶

MCI's experience with PacBell's provisioning of resale suggests that at least the following steps must be taken to conform PacBell's practices to the nondiscriminatory standards adopted by the FCC and enacted in the California Public Utilities Code:

Pacific Bell enforce a strict policy of courtesy, non-intimidation, and non-harassment towards MCI customers or potential customers upon all of its employees who have contact with the public, especially its customer

⁶ First Report and Order, Released August 8, 1996, CC Docket no. 96-98 and CC Docket No. 95-185, Par. 970.

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representatives. In particular, Pacific Bell's employees must be directed to refrain from interfering with a customer's exercise of choice, as such actions are anticompetitive.

Pacific Bell must ensure its processes and systems enable customers to exercise their right to choose their local service without jeopardizing the quality of their telephone service. The disconnect-reconnect process, which has resulted in loss of dialtone and loss of customer information must be strictly avoided.

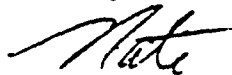
Pacific Bell must honor its commitments to migrate customers as scheduled, as failure to do so, while honoring commitments to Pacific Bell's own customers, would be discriminatory.

Pacific Bell must work with MCI to develop standard electronic data interface capability, with a standardized format which can be used in conjunction with other incumbent local exchange carriers.

Although the scale of MCI's entry into the local exchange market has been deliberately limited to date, PacBell's resale process is unsatisfactory and is placing MCI at a competitive disadvantage that could be construed as discrimination against MCI and its customers. MCI intends to accelerate its entry into the residential and small business markets and to launch its business local exchange service late this year. PacBell's piecemeal approach to the provisioning of resold local exchange service has created an untenable situation. The above-identified problems must be addressed promptly to ensure that PacBell's failure to provide MCI with adequate service is not construed as discriminatory or anticompetitive. At the very least, PacBell must adopt and promulgate detailed business processes, including performance measures and standards, as a means of minimizing the potential for discrimination against MCI. These actions are key to enabling local exchange competition to go forward.

I welcome the opportunity to work with you and look forward to your written response.

Sincerely,



Nate Davis
COO, MCImetro

ATTACHMENT 2

**Summary of MCI's Position
Regarding Business Processes
(Attachment 3 to MCI's Petition,
A.96-08-068)**

December 11, 1996

Issue 1: Pre-ordering and Order Processing

MCI Position: The incumbent LEC must make available to MCI industry standard electronic interface systems sufficient to order interconnection trunks, unbundled network elements, resale, and other ILEC services as efficiently as the ILEC provides itself.

Pacific Position: Pacific is developing a proprietary system and has refused to use industry standard OBF Forum.

Summary: • It is critical that processes and interfaces be established that permit the CLEC to provide their potential new users with the same level of service as ILEC's provide their potential new users, including provision of telephone numbers (for resellers), install dates, and other information necessary for the customer to initiate service. (See Order, Paragraphs 518, 521)

- The FCC has determined that pre-ordering and ordering systems are network elements that the ILEC must unbundle pursuant to Section 251(c)(3). (Order, Paragraph 516).
- Prior experience has demonstrated that unless the ILEC provides MCI with electronic (real time) interfaces to ILEC ordering systems, MCI will not be able to provide its customers with service at parity (and better) with the ILEC.
- Access to support systems must be through a nationally standardized gateway. ILEC provision of proprietary interfaces to their databases and operations support systems is not sufficient.
- For resale, MCI must have the ability to order (and have provisioned) service "as is" for existing ILEC customers. Such transfer "as is" is efficient for both MCI and customers and is technically feasible.

Issue 2: Provisioning and Installation

MCI Position: The ILEC must install the ordered item (interconnection trunk, unbundled element, resale service, or other service) in no more time than it takes for the ILEC to install such item for itself or its affiliates.

The CLEC must have real-time access to the ILEC's provisioning system in order to allow it track status and to be able to report such information to customers.

The ILEC must report quarterly on the install intervals for new entrants and for itself on each type of install.

Pacific Position: Pacific will provide parity with CLEC's end use customers but not at the same time as its own customers.

- Summary:**
- Timely provisioning intervals are critical to ensure that the new entrant, who is dependent upon such items, is not disrupted or otherwise hindered in its ability to provide service to its end users.
 - The ILECs have, or should have, target installation intervals for most if not all of these items; thus, it is reasonable to expect the ILECs to be able to comply with installation intervals.
 - Requiring the ILEC to install items in the same time interval they install for themselves will insure nondiscrimination.
 - The FCC has required ILEC's to unbundle their operations support systems, including their provisioning systems. (Order, Paragraph 516).
 - Real time access to provisioning systems will permit CLECs to respond to customer inquiries in a manner at least equivalent to how the ILECs respond to their customer inquiries.
 - Regular reporting requirements are necessary to ensure compliance and avoid discriminatory treatment.